



Joint Public Notice

Public Notice No.
200500358

Date:
13 Feb 06

Closing Date:
14 Mar 06

**US Army Corps
of Engineers**
Louisville District

Please address all comments and inquiries to:
U.S. Army Corps of Engineers, Louisville District
ATTN: Mr. George DeLancey, CELRL-OP-FS
P.O. Box 489
Newburgh, Indiana 47629-0489

Phone: (812) 842-2807

This notice announces an application submitted for a Department of the Army (DA) Permit, subject to Section 404 of the Clean Water Act (CWA) and for State Water Quality Certification pursuant to Section 401 of the CWA from the Indiana Department of Environmental Management, Office of Water Quality.

APPLICANT: English Resources, Inc.
P.O. Box 34
Evansville, Indiana 47701

AGENT: Wetland Services, Inc.
3880 Trigg-Turner Road
Corydon, Kentucky 42406

LOCATION: Antioch Creek, Oberts Ditch, unnamed tributaries to Antioch Creek, unnamed tributaries to Egan Ditch, unnamed tributaries to Oberts Ditch, and 5.806 acres of palustrine scrub/shrub-forested wetlands located approximately 2.8 miles northwest of Montgomery, Daviess County, Indiana.

Latitude: 38-41-25
Longitude: 87-05-03
7.5 Minute Quad: MONTGOMERY, IN

PURPOSE: To relocate streams, wetlands, and to construct sediment basins to facilitate the removal of subsurface coal material referenced as Indiana Department of Natural Resources (IDNR) Permit S-355.

DESCRIPTION OF WORK: The applicant is proposing to mine a multi-seam reserve containing nine different coal seams as approved by the Surface Mining Control and Reclamation Act, IDNR Permit # 355. The proposed mining activity would utilize truck/shovel surface mining methods to mine through the 1,275 acre permitted area. The mining activity would necessitate the mining through and impoundment of 10 intermittent streams totaling 24,745 linear feet and 4 wetlands totaling 5.806 acres.

MITIGATION: The applicant proposes to complete all mitigation on-site. The streams would be mitigated by replacing the total Rapid Bioassessment Protocol value of the pre-mine streams at a 1.5:1 ratio. Enhancements would include wider stream corridors and the construction of more natural stream morphology, physical habitat structures and establishment of riparian buffers.

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The wetlands would be mitigated at a 2:1 ratio. This mitigation would be completed near the southwest corner of the mining site and would be completed soon after mine initiation and in advance of the proposed wetland impacts to reduce temporal losses. The vegetation would be managed for native herbaceous and hard-mast tree species.

It is noted that this proposed mitigation plan is open to comment and subject to change. The Corps will make a determination of appropriate mitigation, upon review of all submitted information.

REVIEW PROCEDURES: A DA Permit cannot be issued if any legally required Federal, State, or local authorization or certification is denied.

A DA Permit, if otherwise warranted, will not be issued on this project until a State of Indiana Section 401 Water Quality Certification (WQC) from the Indiana Department of Environmental Management (IDEM) is on file in this office or it is considered waived. This Public Notice serves as the notice for a Clean Water Act Section 401 application for water quality certification from the IDEM. IDEM will review this proposal for compliance with the applicable provisions of Section 301, 302, 303, 306 and 307 of the CWA, including the state water quality standards currently set forth at 327 IAC 2. They will consider comments regarding this proposal postmarked by the closing date of this notice. Comments to IDEM should be addressed to: IDEM, Office of Water Quality, Section 401 WQC Program, 100 N. Senate Av. Room 1255, P. O. Box 6015, Indianapolis, Indiana 46206-6015. The applicant is responsible for obtaining the certification from IDEM.

Copies of this notice are sent to the appropriate Federal and State Fish and Wildlife Agencies. Their views and comments are solicited in accordance with the Fish and Wildlife Coordination Act of 1956. Based on available information, the proposed activity will not destroy or endanger any Federally-listed threatened or endangered species or their critical habitats, as identified under the Endangered Species Act, and therefore, initiation of formal consultation procedures with the U.S. Fish and Wildlife Service is not planned at this time.

Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. A request for a public hearing must state the specific interest which might be damaged by issuance of the DA Permit.

The National Register of Historic Places has been examined, and it has been determined that there are no properties currently listed on the Register which would be directly affected by the proposed work. If we are made aware, as a result of comments received in response to this notice, or by other means, of specific archaeological, scientific, prehistorical, or historical sites or structures which might be affected by the proposed work, the District Engineer will immediately take the appropriate action necessary pursuant to the National Historic Preservation Act of 1966 - Public Law 89-665 as amended (including Public Law 96-515).

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The decision whether to issue a permit will be based on an evaluation of the probable impact of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered; among those are conservation, economics, aesthetic values, general environmental concerns, historic values, fish and wildlife values, flood damage prevention, land use, navigation, recreation, water supply, water quality, energy needs, safety, food production, and in general, the needs and welfare of the public. In addition, the evaluation of the impact of the activity on the public interest will include application of the guidelines (40 CFR Part 230) promulgated by the Administrator, U.S. Environmental Protection Agency (USEPA), under authority of Section 404(b) of the CWA.

The Corps of Engineers is soliciting comments from the public; Federal, State, and local agencies and officials; Indian tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

Written statements received in this office on or before the closing date will become a part of the official record and will be considered in the determination on this permit request. Any objections which are received during this period will be forwarded to the applicant for possible resolution before the determination is made whether to issue or deny the requested DA Permit. A permit will be granted unless its issuance is found to be contrary to the public interest.

Information pertaining to this application is available for public examination during normal business hours upon prior request. Drawings are available on Louisville District's Internet site at <http://www.lrl.usace.army.mil> under "Obtain a Permit". All comments regarding this proposal should be addressed to Mr. George DeLancey, CELRL-OP-FS, at the address noted above and should refer to the Public Notice Number 200500358.